

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re the Application of: Bradley S. Cooper

Application Number: 10/783,199

Art Unit: 3765

Filed: 2/20/2004

Examiner: Alissa L. Hoey

Title: Pitcher's Jacket



REQUEST FOR RECONSIDERATION OF HOLDING OF ABANDONMENT

Commissioner of Patents

Alexandria, VA 22313

Sir:

This letter is in response to Office Action dated 5/13/2005 concerning the above-identified U.S. Patent Application. It is contended that the application is not in fact abandoned and request the withdrawal of the Holding of Abandonment based on evidence that a reply was timely mailed.

In response to the Office Action dated 10/01/2004, a Petition for Extension of Time under 37 CFR 1.136 was filed by the applicant. A photocopy of the applicants' Petition for Extension of Time is herewith attached. Photocopy documentation of the stamped receipt of this correspondence by the Patent and Trademark Office is included, as well as, photocopies of the official USPS certified mail receipt noting delivery of the above correspondence in a timely manner. The applicants' Petition for Extension of Time is documented as being mailed 12/16/2004, which is in compliance with the required three month time period for reply noted on the Office Action dated 10/01/2004.

In response to the Office Action dated 10/01/2004, an Amendment Letter was filed by the applicant. A photocopy of the applicants' Amendment Letter is herewith attached. Photocopy documentation of the stamped receipt of this correspondence by the Patent and Trademark Office is included, as well as, photocopies of the official USPS certified mail receipt noting delivery of the above correspondence in a timely manner. The applicants Amendment Letter is documented as being mailed 1/31/2005, which is in compliance with the one month extension that required a reply by 2/01/2005.

In response to a telephone conversation with Mr. John Calvert of the Patent and Trademark Office, the above noted documentation was faxed to the attention of Mr. Calvert, as per his request, on 2/28/2005. A photocopy of the fax transmittal sheet is herewith attached.

In view of the foregoing discussion and the foregoing attached documentation, the applicant hereby respectfully requests the withdrawal of the Holding of Abandonment.

Respectfully submitted,

A handwritten signature in cursive script, reading "Bradley S. Cooper".

Bradley S. Cooper

Attachments:

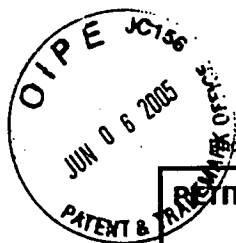
Photocopy of Extension of Time submitted 12/16/2004

Photocopy of documentation of receipt of Extension of Time form by the USPTO with USPS certified mail receipt and USPTO mail center stamp

Photocopy of Amendment Letter submitted 1/31/2005

Photocopy of documentation of receipt of Amendment Letter by the USPTO with USPS certified mail receipt and USPTO mail center stamp

Photocopy of Fax Transmission to Mr. John Calvert, per his request, regarding the above documents on 2/28/2005.

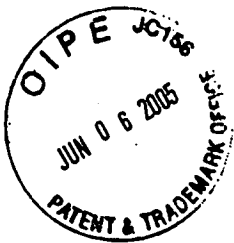


Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

APPLICATION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2005 (fees effective on or after October 1, 2004)		Docket Number (Optional)	
Application Number <u>10/783,119</u>		Filed <u>02/20/2004</u>	
For <u>Bradley Cooper</u>			
Art Unit <u>3765</u>		Examiner <u>Hoey, Ailissa L.</u>	
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.			
The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):			
	<u>Fee</u>	<u>Small Entity Fee</u>	
<input checked="" type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$110	\$55	\$ <u>55.00</u>
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$430	\$215	\$ _____
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$980	\$490	\$ _____
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1530	\$765	\$ _____
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2080	\$1040	\$ _____
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.			
<input checked="" type="checkbox"/> A check in the amount of the fee is enclosed.			
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.			
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.			
<input type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number _____. I have enclosed a duplicate copy of this sheet.			
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.			
I am the <input checked="" type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).			
<input type="checkbox"/> attorney or agent of record. Registration Number _____			
<input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
<u>Bradley Cooper</u> Signature		<u>12-15-04</u> Date	
<u>Bradley Cooper</u> Typed or printed name		<u>281-343-7122</u> Telephone Number	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> Total of <u>2</u> forms are submitted.			

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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Bradley Cooper
TIER 1 GEAR
7323 EMERALD GLEN DR.
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88-8377/1119 1386
DATE 12-15-04

PAY TO THE ORDER OF Director of US Patent & TM Office \$55.00
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MEMO 10/783,119 Kevin Cooper

111993776 486

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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

USPTO
Alissa Hoey, Unit 3765
P.O. Box 1450
Alexandria, Virginia
22313/1450

2. Article Number

(Transfer from service label)

PS Form 3811, August 2001

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A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Print Name)

C. Date of Delivery

D. Is delivery address different from item 1? If yes, enter delivery address below.

☐ Yes
☐ No

3. Service Type

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☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

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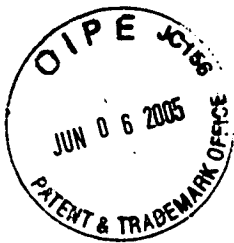
Postage \$ 0.60
Certified Fee 2.35
Return Receipt Fee (Endorsement Required) 1.75
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees \$ 4.65

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Clerk: K65269
12/16/04

Sent To USPTO

Street, Apt. No., or PO Box No. P.O. Box 1450 unit 3765

Mail Receipt for
petition for extension
of time



Mail Receipt for
Amendment Letter
response to office action

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7004 0750 0002 4341 0782

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City, State, ZIP+4: Alexandria VA 22313	
PS Form 3800, June 2002	
See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece or on the front if space permits.	<p>A. Signature <input checked="" type="checkbox"/> X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>E. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
1. Article Addressed to: USPTO PO BOX 1450 Alexandria, VA 22313	
2. Article Number (Transfer from service is)	7004 0750 0002 4341 0782

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540



IN THE U.S. PATENT AND TRADEMARK OFFICE

In re the Application of: Bradley S. Cooper

Application Number: 10/783,119

Art Unit: 3765

Filed: 2/20/2004

Examiner: Alissa L. Hoey

Title: Pitcher's Jacket

AMENDMENT LETTER:

Commissioner of Patents

Alexandria, VA 22313

Sir:

In response to the Office Action dated 10/01/2004 concerning the above-identified U.S. Patent Application, please amend the Application as follows:

In the Drawings:

Amended replacement drawing sheets are herewith transmitted. In Figures 2 and 3, please label reference character 12 as 13. A photocopy of the drawing with the correction in red ink are herewith transmitted.

In the Claims:

Please amend Claim 1 as follows:

1. (Currently amended) A jacket comprising;

a body portion of the jacket surrounding the upper extremity below the arms; and
a portion of the jacket extending over the front chest quadrant, ~~shoulder, and at
least a portion of a first arm, wherein a second arm and associated upper
extremity and shoulder region are not covered by the jacket.~~ and

a raglan sleeve portion of the jacket that includes the first arm and shoulder area,
wherein a second arm and associated shoulder region are not covered by the
jacket.

Please amend Claim 2 as follows:

2. (Currently amended) The jacket recited in Claim 1 wherein the arm and
shoulder area covered by the jacket is the arm and shoulder used in pitching.

Please amend Claim 3 as follows:

3. (Currently amended) The jacket as recited in Claim 2 further comprising
a fastener element located at the front chest quadrant area permitting the
region portion of the jacket surrounding the chest to be separated.

Please amend Claim 4 as follows:

4. (Currently amended) A method for providing a warm-up jacket, the jacket retaining warmth for one arm and associated shoulder muscles, the method comprising:

covering the one arm and shoulder area by the jacket;

providing a raglan sleeve design to allow for uninhibited full range of motion during throwing activity;

shaping the jacket to expose the second arm and associated abdominal and shoulder region; and

providing a lower portion of the jacket to secure the jacket ~~to the abdomen~~
at the front chest quadrant area

Please amend Claim 5 as follows:

5. (Currently amended) The method recited in claim 4 wherein the one arm is ~~involved~~ engaged in a throwing activity and;

the throwing activity requires unrestricted full range of movement between the arm and shoulder muscles; and

the throwing activity requires that the one arm does not make contact with any impediments during the throwing motion.

Please amend Claim 6 as follows:

6. (Currently amended) The method recited in claim 4 further comprising: providing the lower portion of the jacket with a detachable fastener to permit removal of the jacket and;

providing the fastener in the front chest quadrant area to prevent contact between the one arm and the fastener.

Please amend Claim 7 as follows:

7. (Currently amended) A jacket comprising;
- a raglan sleeve portion covering at least a portion of one arm and shoulder area, and associated regions of the abdomen;
- an aperture in the jacket exposing a second arm, shoulder, and associated regions of the abdomen; and
- a lower portion securing the jacket to the abdomen

Please amend Claim 8 as follows:

8. (Currently amended) The jacket recited in claim 7 wherein the lower portion includes a fastener located in the front chest quadrant for detachably securing the jacket to the abdomen.

Please amend Claim 9 as follows:

9. (Currently amended) The jacket as recited in claim 7 wherein the jacket permits the one arm and associated regions to retain heat while engaged in throwing activity.

REMARKS

Claims 1-9 have been presented for examination in the above-identified U.S. Patent Application.

Claims 1-9 have been rejected in Office Action dated 10/01/2004 concerning the above-identified U.S. Patent Application.

Claims 1-9 have been amended by this Amendment A.

Claims 1-9 are still in the Application and reconsideration of the Application is hereby respectfully requested.

Referring to Paragraph 2 on Page 3 of the Office Action, the drawings have been objected to because of the identifier 12 in Figure 2. By this Amendment A, correction to Figure 2 and Figure 3 has been requested implementing the change indicated by Examiner. The proposed changes are shown in the replacement drawings transmitted herewith. Therefore, objection to Application because of the cited informalities has been answered by amendment.

Claims 1-9 have been rejected under 35 U.S.C. 102 as being anticipated by Dellinger (US 6,237,151). Before discussing the Dellinger reference, the invention sought to be protected by the present Application will be summarized. In the field of athletics, it is standard practice for athletes to try to maintain warmth in the particular muscle groups being used in the activity. In the case of sports with overhead throwing, such as baseball, the pitcher tries to maintain muscle warmth in the arm and upper extremity muscle groups of the involved, pitching arm. Warmth retention keeps the muscles loose and flexible, thereby reducing muscle cramps and tightness. In addition to keeping the muscles warm, the athletes require a device that is functional, in that, the athlete can continue to throw effectively and whose movement is not restricted. Typical solutions include towel wraps or full jackets, both of which have proven inconvenient and

ineffective. Prior devices have attempted to provide thermal benefit, but these devices either don't address all the involved muscle groups or their design creates a tendency to bind or restrict movement.

Referring next to the Dellinger reference, this reference discloses a warm-up garment. As noted in Figure 2 of the reference, the warm up garment is shown and described as having a single sleeve (11) for receiving the wearer's hand and arm. The sleeve (11) is attached by a seam (15) at the upper end (12) of the sleeve. The upper end (12) of the sleeve (11) does not cover the shoulder. Moreover, the pitcher's jacket is illustrated in the figures and described in the amended claims as having a raglan sleeve (6). The raglan sleeve (6) extends in one piece diagonally to the neckline of the garment with a seam from the armhole to the neck. The seam line of the present invention is visible in the figures but not noted with an identifying number. The raglan sleeve (6) of the pitcher's jacket, therefore extends to cover the shoulder area. During pitching activity, both the arm and shoulder muscles are used in tandem as the athlete takes the arm and shoulder muscles through a full range of motion. It is, therefore, critical, that the design of a garment worn by a pitcher implements the need for uninhibited range of motion between the arm and shoulder. The raglan sleeve of the pitcher's jacket is an improvement over the reference since it provides a garment whose design incorporates both the arm and shoulder muscles. In contrast, the Dellinger reference provides a sleeve (11) with a seam (15) at the upper arm, which inhibits freedom of movement between the arm and shoulder. Therefore, the structure and function of the present invention distinguish of the Dellinger reference in a non-obvious manner.

Referring now to Figure 4 in the Dellinger reference, the back face (23) is connected to the outer surface (37) of attachment panel (35) around the wearer's upper torso. In Figure 5, the front of the Dellinger garment (10) is shown in a closed position, with the distal end (39) of the attachment strap (35) attached to the back face (23) of front panel (16), the attached face being secured under the wearer's arm. In addition, Claim #1c of the Dellinger reference notes the first and second ends are attached under the wearer's arm opposite the sleeve. Referring now to Figure 1 of the drawings in the present

invention, fastener elements (13A) and (13B) are noted. The fastener elements (13A) and (13B) are shown attached in Figure 2 at the sternal upper quadrant of the wearer. That is, in the present invention, the fastener element is located in a different, more desirable location. By locating the fastener element in the sternal upper quadrant, the wearer avoids frequent contact and friction with the fastener element. The Dellinger reference, however, notes the attachment panel (35) in a location under the throwing arm, which could create wear on the fastener element and cause discomfort for the wearer.

Referring now to Figures 7 and 8 of the Dellinger reference. The reference describes the related art having an elbow pocket (51) attached to sleeve (11) and a shoulder pocket (52) attached to back panel (17) second face (25). The reference also notes in Claim #9 a warm up garment comprising at least one pocket. Note, in the present invention, there are no said pockets.

Summarizing, the Dellinger reference includes a garment to maintain warmth in a single arm and shoulder. However, the garment's method of construction and related functionality differs from that of the present invention. The Dellinger reference uses a single sleeve with a seam edge at the upper arm, whereas, the present invention uses a raglan sleeve design that incorporates both the arm and shoulder. The raglan sleeve design described by the present invention better addresses the needs of the throwing athlete who requires apparel that allows for full, uninhibited range of motion. The Dellinger reference also describes an attachment panel that secures under the throwing arm of the wearer. The location of the attachment panel in the Dellinger reference is disruptive to the wearer who's throwing arm and hand would make frequent contact and friction with the attachment panel. The fastener element described by the current invention, however, is located in the sternal upper quadrant in order to minimize fastener wear and enhance the comfort of the wearer. In addition, the Dellinger reference claims a pocket feature that is not present in the pitcher's jacket. These differences are not obvious without the teaching of the present Application. Consequently, a rejection under 35 U.S.C. 102 (b) would not be appropriate.

In view of the foregoing discussion concerning the Claims now present in the Application, it is believed that Claims 1-9 are now in condition for allowance. Therefore, rejection of Claims 1-9 under 35 U.S.C. 102 (b) over Dellinger is respectfully traversed.



CONCLUSIONS:

In view of the foregoing discussion and the foregoing amendments, it is believed that Claims 1-9 are now in condition for allowance. Applicant hereby respectfully requests a timely Notice of Allowance be issued in this Application.

Respectfully submitted,

Bradley S. Cooper

A handwritten signature in cursive script that reads "Bradley S. Cooper".

HP OfficeJet G Series G85xi
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Fax-History Report for
KIM COOPER
281-545-8989
Feb 28 2005 3:59pm

Last Fax

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
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